

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

FILED
TIME _____
JUL 26 2010
JAMES BONINI, Clerk
COLUMBUS, OHIO

Todd A. Jones,	:	
	:	
Plaintiff	:	Civil Action 2:10-cv-00585
	:	
v.	:	Judge Frost
	:	
The Ohio State University,	:	Magistrate Judge Abel
	:	
Defendant	:	

ORDER

Plaintiff Jones brings this civil rights action under 42 U.S.C. §1983. This matter is before the Court on Magistrate Judge Abel's June 28, 2010 Report and Recommendation that plaintiff's complaint be dismissed because it is barred by *res judicata*. No objections were filed to the Report and Recommendation. On July 2, 2010 plaintiff filed a motion to withdraw re-filed criminal and civil complaint against OSU without prejudice. (Doc. # 7.)

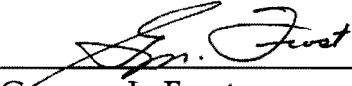
The complaint alleges that Todd A. Jones was employed by The Ohio State University as a custodial worker between September 30, 2002 and June 13, 2004 when the University unlawfully terminated his employment. Plaintiff presented these same claims to this Court in *Todd A. Jones v. Ohio State University, et al.*, 2:05-cv-137, filed February 10, 2005. On May 29, 2007, the Court granted defendants' motion for summary judgment and dismissed plaintiff's Title VII claims on the merits. It declined to exercise jurisdiction over any state law claims that may have been alleged in the complaint and dismissed those claims without prejudice. Plaintiff appealed. On May 2, 2008, the United States Court of

Appeals for the Sixth Circuit affirmed the trial court's judgment.

Jones filed a second suit. *Todd A. Jones v. The Ohio State University, et al.*, 2:07-cv-587, filed June 19, 2007. On December 17, 2007, the Court dismissed the complaint on initial screening as barred by *res judicata*. The United States Court of Appeals for the Sixth Circuit has consistently held that any claims a litigant could have litigated against a party in a prior lawsuit are barred from being raised in a second lawsuit involving the same party. *Rivers v. Barberton Board of Education*, 143 F.3d 1029, 1032 (6th Cir. 1998); *J.Z.G. Resources, Inc. v. Shelby Insurance Company*, 84 F.3d 211, 214 (6th Cir. 1996); *Os-born v. Ashland County Board of Education*, 979 F.2d 1131, 1133-34 (6th Cir. 1992).

The Magistrate Judge correctly concluded that plaintiff has had a fair opportunity to litigate his claim that defendants have discriminated against him in his employment. He asserts that new evidence supports his claims, but he has already litigated those claims to final judgment. And, the Court of Appeals has affirmed the judgment of the district court dismissing those claims. He cannot now relitigate those claims.

Upon *de novo* review in accordance with the provisions of 28 U.S.C. §636(b)(1)(B), the Court **ADOPTS** the Report and Recommendation and **DISMISSES** plaintiff's complaint. Plaintiff's July 2, 2010 motion to withdraw re-filed criminal and civil complaint against OSU without prejudice (Doc. 7) is **DENIED**.



Gregory L. Frost
United States District Judge